

CHILD CARE ORGANIZATIONS (EXCERPT)
Act 116 of 1973

722.115 License or certificate of registration required; application; forms; investigations; on-site visit; issuance or renewal of license; issuance of certificate of registration; certifying compliance, services, and facilities; conditions; orientation session; limitations on certificate; investigation and certification of foster family home or group home; placement of children in foster family home, family group home, unlicensed residence, adult foster care family home, or adult foster care small group home; certification; supervisory responsibility; records; exceptions; receipt of completed application; issuance of license within certain period of time; inspections; report; criminal history check or criminal records check; definitions.

Sec. 5. (1) A person, partnership, firm, corporation, association, or nongovernmental organization shall not establish or maintain a child care organization unless licensed or registered by the department. Application for a license or certificate of registration shall be made on forms provided, and in the manner prescribed, by the department. Before issuing or renewing a license, the department shall investigate the applicant's activities and proposed standards of care and shall make an on-site visit of the proposed or established organization. If the department is satisfied as to the need for a child care organization, its financial stability, the applicant's good moral character, and that the services and facilities are conducive to the welfare of the children, the department shall issue or renew the license. If a county juvenile agency as defined in section 2 of the county juvenile agency act, 1998 PA 518, MCL 45.622, certifies to the department that it intends to contract with an applicant for a new license, the department shall issue or deny the license within 60 days after it receives a complete application as provided in section 5b.

(2) The department shall issue a certificate of registration to a person who has successfully completed an orientation session offered by the department and who certifies to the department that the family child care home has complied with and will continue to comply with the rules promulgated under this act and will provide services and facilities, as determined by the department, conducive to the welfare of children. The department shall make available to applicants for registration an orientation session regarding this act, the rules promulgated under this act, and the needs of children in family child care before issuing a certificate of registration. The department shall issue a certificate of registration to a specific person at a specific location. A certificate of registration is nontransferable and remains the property of the department. Within 90 days after initial registration, the department shall make an on-site visit of the family child care home.

(3) The department may authorize a licensed child placing agency or an approved governmental unit to investigate a foster family home or a foster family group home according to subsection (1) and to certify that the foster family home or foster family group home meets the licensing requirements prescribed by this act. Before certifying to the department that a foster family home or foster family group home meets the licensing requirements prescribed by this act, the licensed child placing agency or approved governmental unit shall receive and review a medical statement for each member of the household indicating that he or she does not have a known condition that would affect the care of a foster child. The medical statement required under this section shall be signed and dated by a physician licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, a physician's assistant licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, or a certified nurse practitioner licensed as a registered professional nurse under part 172 of the public health code, 1978 PA 368, MCL 333.17201 to 333.17242, who has been issued a specialty certification as a nurse practitioner by the board of nursing under section 17210 of the public health code, 1978 PA 368, MCL 333.17210, within the 12 months immediately preceding the date of the initial evaluation. This subsection does not require new or additional third party reimbursement or worker's compensation benefits for services rendered. A foster family home or a foster family group home shall be certified for licensing by the department by only 1 child placing agency or approved governmental unit. Other child placing agencies may place children in a foster family home or foster family group home only upon the approval of the certifying agency or governmental unit.

(4) The department may authorize a licensed child placing agency or an approved governmental unit to place a child who is 16 or 17 years of age in his or her own unlicensed residence, or in the unlicensed residence of an adult who has no supervisory responsibility for the child, if a child placing agency or governmental unit retains supervisory responsibility for the child.

(5) A licensed child placing agency, child caring institution, and an approved governmental unit shall provide the state court administrative office and a local foster care review board established under 1984 PA 422, MCL 722.131 to 722.139a, those records requested pertaining to children in foster care placement for

more than 6 months.

(6) The department may authorize a licensed child placing agency or an approved governmental unit to place a child who is 16 or 17 years old in an adult foster care family home or an adult foster care small group home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, if a licensed child placing agency or approved governmental unit retains supervisory responsibility for the child and certifies to the department all of the following:

- (a) The placement is in the best interests of the child.
- (b) The child's needs can be adequately met by the adult foster care family home or small group home.
- (c) The child will be compatible with other residents of the adult foster care family home or small group home.
- (d) The child placing agency or approved governmental unit will periodically reevaluate the placement of a child under this subsection to determine that the criteria for placement in subdivisions (a) through (c) continue to be met.

(7) On an exception basis, the director of the department, or his or her designee, may authorize a licensed child placing agency or an approved governmental unit to place an adult in a foster family home if a licensed child placing agency or approved governmental unit certifies to the department all of the following:

(a) The adult is a person with a developmental disability as defined by section 100a of the mental health code, 1974 PA 258, MCL 330.1100a, or a person who is otherwise neurologically disabled and is also physically limited to a degree that requires complete physical assistance with mobility and activities of daily living.

(b) The placement is in the best interests of the adult and will not adversely affect the interests of the foster child or children residing in the foster family home.

(c) The identified needs of the adult can be met by the foster family home.

(d) The adult will be compatible with other residents of the foster family home.

(e) The child placing agency or approved governmental unit will periodically reevaluate the placement of an adult under this subsection to determine that the criteria for placement in subdivisions (a) through (d) continue to be met and document that the adult is receiving care consistent with the administrative rules for a child placing agency.

(8) On an exception basis, the director of the department, or his or her designee, may authorize a licensed child placing agency or an approved governmental unit to place a child in an adult foster care family home or an adult foster care small group home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737, if the licensed child placing agency or approved governmental unit certifies to the department all of the following:

(a) The placement is in the best interests of the child.

(b) The placement has the concurrence of the parent or guardian of the child.

(c) The identified needs of the child can be met adequately by the adult foster care family home or small group home.

(d) The child's psychosocial and clinical needs are compatible with those of other residents of the adult foster care family home or small group home.

(e) The clinical treatment of the child's condition is similar to that of the other residents of the adult foster care family home or small group home.

(f) The child's cognitive level is consistent with the cognitive level of the other residents of the adult foster care family home or small group home.

(g) The child is neurologically disabled and is also physically limited to such a degree as to require complete physical assistance with mobility and activities of daily living.

(h) The child placing agency or approved governmental unit will periodically reevaluate the placement of a child under this subsection to determine that the criteria for placement in subdivisions (a) to (g) continue to be met.

(9) Except as provided in subsection (1) and section 5b, the department shall issue an initial or renewal license or registration under this act for child care centers, group child care homes, and family child care homes not later than 6 months after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of this state. If the application is considered incomplete by the department, the department shall notify the applicant in writing or make notice electronically available within 30 days after receipt of the incomplete application, describing the deficiency and requesting additional information. This subsection does not affect the time period within which an on-site visit to a family child care home shall be made. If the department identifies a deficiency or requires the fulfillment of a corrective action plan, the 6-month period is tolled until either of the following occurs:

(a) Upon notification by the department of a deficiency, until the date the requested information is received

by the department.

(b) Upon notification by the department that a corrective action plan is required, until the date the department determines the requirements of the corrective action plan have been met.

(10) The determination of the completeness of an application is not an approval of the application for the license and does not confer eligibility on an applicant determined otherwise ineligible for issuance of a license.

(11) Except as provided in subsection (1) and section 5b, if the department fails to issue or deny a license or registration to a child care center, group child care home, or family child care home within the time required by this section, the department shall return the license or registration fee and shall reduce the license or registration fee for the applicant's next renewal application, if any, by 15%. Failure to issue or deny a license to a child care center, group child care home, or family child care home within the time period required under this section does not allow the department to otherwise delay the processing of the application. A completed application shall be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of an application based on the fact that the application fee was refunded or discounted under this subsection.

(12) If, on a continual basis, inspections performed by a local health department delay the department in issuing or denying licenses or registrations for child care centers, group day care homes, and family child care homes under this act within the 6-month period, the department may use department staff to complete the inspections instead of the local health department causing the delays.

(13) Beginning October 1, 2008, the director of the department shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with human services and children's issues. The director shall include all of the following information regarding applications for licenses and registrations only for child care centers, group child care homes, and family child care homes filed under this act in the report concerning the preceding fiscal year:

(a) The number of initial and renewal applications the department received and completed within the 6-month time period described in subsection (9).

(b) The number of applications requiring a request for additional information.

(c) The number of applications rejected.

(d) The number of licenses and registrations not issued within the 6-month period.

(e) The average processing time for initial and renewal licenses and registrations granted after the 6-month period.

(14) Except as provided in section 5c(8), the department shall not issue to or renew the license of a child care center or day care center under this act without requesting a criminal history check and criminal records check as required by section 5c. If a criminal history check or criminal records check performed under section 5c or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for a license under this act has been convicted of a listed offense, the department shall not issue a license to that applicant. If a criminal history check or criminal records check performed under section 5c or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for renewal of a license under this act has been convicted of a listed offense, the department shall not renew that license. If a criminal history check or criminal records check performed under section 5c or information obtained as a result of notification from the department of state police under section 5k reveals that a current licensee has been convicted of a listed offense, the department shall revoke the license of that licensee.

(15) Except as provided in section 5f(13), the department shall not issue or renew a certificate of registration to a family child care home or a license to a group child care home under this act without requesting a criminal history check and criminal records check as required by sections 5f and 5g. If a criminal history check or criminal records check performed under section 5f or 5g or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for a certificate of registration or license under this act or a person over 18 years of age residing in that applicant's home has been convicted of a listed offense, the department shall not issue a certificate of registration or license to that applicant. If a criminal history check or criminal records check performed under section 5f or 5g or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for renewal of a certificate of registration or license under this act or a person over 18 years of age residing in that applicant's home has been convicted of a listed offense, the department shall not renew a certificate of registration or license to that applicant. If a criminal history check or criminal records check performed under section 5f or 5g or information obtained as a result of notification from the department of state police under section 5k reveals that a current registrant or licensee under this act or a person over 18

years of age residing in that registrant's or licensee's home has been convicted of a listed offense, the department shall revoke that registrant's certificate of registration or licensee's license.

(16) Except as provided in section 5h(7), the department shall not issue or renew a license to operate a foster family home or foster family group home under this act without requesting a criminal history check and criminal records check as required by sections 5h and 5j. If a criminal history check or criminal records check performed under section 5h or 5j or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for a license to operate a foster family home or foster family group home under this act or a person over 18 years of age residing in that applicant's home has been convicted of a listed offense, the department shall not issue a license to that applicant. If a criminal history check or criminal records check performed under section 5h or 5j or information obtained as a result of notification from the department of state police under section 5k reveals that an applicant for renewal of a license to operate a foster family home or foster family group home under this act or a person over 18 years of age residing in that applicant's home has been convicted of a listed offense, the department shall not renew a license to that applicant. If a criminal history check or criminal records check performed under section 5h or 5j or information obtained as a result of notification from the department of state police under section 5k reveals that a current licensee under this act of a foster family home or foster family group home or a person over 18 years of age residing in that licensee's foster family home or foster family group home has been convicted of a listed offense, the department shall revoke that licensee's license.

(17) As used in this section:

(a) "Completed application" means an application complete on its face and submitted with any applicable licensing or registration fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of this state. A completed application does not include a health inspection performed by a local health department.

(b) "Good moral character" means that term as defined in and determined under 1974 PA 381, MCL 338.41 to 338.47.

(c) "Member of the household" means any individual, other than a foster child, who resides in a foster family home or foster family group home on an ongoing or recurrent basis.

History: 1973, Act 116, Eff. Mar. 29, 1974;—Am. 1974, Act 191, Imd. Eff. July 2, 1974;—Am. 1978, Act 309, Imd. Eff. July 10, 1978;—Am. 1980, Act 32, Imd. Eff. Mar. 10, 1980;—Am. 1980, Act 232, Imd. Eff. July 20, 1980;—Am. 1980, Act 498, Imd. Eff. Jan. 21, 1981;—Am. 1980, Act 510, Imd. Eff. Jan. 26, 1981;—Am. 1981, Act 126, Imd. Eff. July 23, 1981;—Am. 1982, Act 329, Imd. Eff. Dec. 14, 1982;—Am. 1984, Act 421, Imd. Eff. Dec. 28, 1984;—Am. 1986, Act 169, Imd. Eff. July 7, 1986;—Am. 1989, Act 72, Imd. Eff. June 16, 1989;—Am. 1991, Act 162, Imd. Eff. Dec. 9, 1991;—Am. 1995, Act 81, Imd. Eff. June 15, 1995;—Am. 1998, Act 34, Imd. Eff. Mar. 18, 1998;—Am. 1998, Act 519, Imd. Eff. Jan. 12, 1999;—Am. 2004, Act 315, Eff. Oct. 1, 2007;—Am. 2005, Act 133, Eff. Jan. 1, 2006;—Am. 2006, Act 51, Imd. Eff. Mar. 9, 2006;—Am. 2006, Act 580, Imd. Eff. Jan. 3, 2007;—Am. 2007, Act 217, Imd. Eff. Dec. 28, 2007;—Am. 2007, Act 218, Eff. Jan. 1, 2008.

Constitutionality: The First and Fourteenth Amendments of the United States Constitution do not prevent the state from compelling the defendants to conform to the licensure requirements of the childcare organization act. Department of Social Services v Emmanuel Baptist Preschool, 434 Mich 380; 455 NW2d 1 (1990).

Compiler's note: For transfer of powers and duties of child welfare licensing from the department of social services to the director of the department of commerce, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 116

Popular name: Child Care Licensing Act

Administrative rules: R 400.1 et seq.; R 400.1301 et seq.; R 400.4101 et seq.; R 400.5101 et seq.; R 400.9101 et seq.; R 400.11101 et seq.; and R 400.12101 et seq. the Michigan Administrative Code.